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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

SETH RAYMOND DELWORTH,

Defendant and Appellant.

F078614

(Super. Ct. No. 1497387)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Stanislaus County, Linda A. McFadden, Judge.

Kendall D. Wasley, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Detjen, Acting P.J., Smith, J., and Snauffer, J.

STATEMENT OF APPEALABILITY

This appeal is from a final judgment following a plea of guilty and is authorized by Penal Code section 1237.5.

STATEMENT OF THE CASE

On March 2, 2018, the Stanislaus County District Attorney filed an information charging Seth Raymond Delworth with three counts of assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1); counts I, II, & III), one count of driving under the influence causing bodily injury (Veh. Code, § 23153, subd. (a);¹ count IV), one count of involvement in a vehicle accident causing injury and failure to stop (§ 20001, subd. (a); count V), and one count of driving on a suspended license (§ 14601.1, subd. (a); count VI). As to count IV, two multiple victim enhancements (§ 23558) were alleged.

On September 20, 2018, based on a plea agreement with the prosecution for the possibility of probation and a maximum sentence of three years state prison, Delworth pleaded no contest to count IV, driving under the influence causing bodily injury (§ 23153, subd. (a)), and count V, involvement in a vehicle accident causing injury and failing to stop (§ 20001, subd. (a)), with the remaining counts to be dismissed. The parties stipulated to the preliminary hearing transcript as the factual basis for the plea.

On December 5, 2018, Delworth was sentenced to the aggravated term of three years on count IV, and three years, to run concurrently, on count V. He was ordered to pay various fines and fees, and awarded a total of 361 days of time credits.

Delworth filed a timely notice of appeal on December 21, 2018.

STATEMENT OF FACTS

On November 26, 2015, Delworth went with W.R. to a friend's house for Thanksgiving dinner. He drank beer and whiskey. They left dinner early because

¹ Undesignated statutory references are to the Vehicle Code.

Delworth seemed intoxicated; he was angry and cursing at the dinner table. Later that evening, Delworth left W.R.'s house driving his pewter colored SUV.

That same night, T.E. was driving his wife and their five-year-old daughter home from Thanksgiving dinner and saw a SUV being driven erratically. The SUV ran a stop light. After the light turned green, T.E. continued driving and saw the SUV parked on the side of the road with Delworth standing beside it. As T.E.'s car passed Delworth, Delworth yelled "fuck you bitch." After that, the SUV drove up very fast behind T.E. T.E. tried to get out of the way by moving to the middle lane, but the SUV hit the back of T.E.'s car, causing it to cross the dirt barrier into oncoming traffic and roll over. Delworth drove off without stopping.

T.E.'s shoulder and back were sore as a result of the collision. His daughter's back was also sore, and they both went to the chiropractor. His wife injured her left foot and had a concussion, spending one night in the hospital.

The following day, a pewter colored SUV was found with front end damage and silver paint transfer similar to the color of T.E.'s car. Delworth's court paperwork was found inside the SUV.

APPELLATE COURT REVIEW

Delworth's appointed appellate counsel has filed an opening brief that summarizes the pertinent facts, raises no issues, and requests this court to review the record independently. (*People v. Wende* (1979) 25 Cal.3d 436.) The opening brief also includes the declaration of appellate counsel indicating Delworth was advised he could file his own brief with this court. By letter on June 6, 2019, we invited Delworth to submit additional briefing. To date, he has not done so.

The court has reviewed the entire clerk's transcript herein, consisting of 242 pages, the reporter's transcript of 71 pages, including the transcript of the *Marsden*²

² *People v. Marsden* (1970) 2 Cal.3d 118.

hearing of November 8, 2016, filed under seal, and the Stanislaus County Probation Department's report filed on October 25, 2018.

After independently reviewing the entire record, we have concluded there are no reasonably arguable legal or factual issues.

DISPOSITION

The judgment is affirmed.